IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7036 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JIVRAJBHAI MULJIBHAI PARMAR

Versus

DIST COLLECTOR

Appearance:

MR TR MISHRA for Petitioner No. 1-2

..... for Respondent No. 1-4

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 29/08/2001

ORAL JUDGEMENT

Rule on behalf of Respondent Nos. 1 and 2.

Respondent Nos. 3 and 4 are deleted.

2. Shri Jivanbhai Muljibhai Parmar and Mrs.Lalitaben Jivanbhai Parmar, petitioners have filed this petition for writ of mandamus directing the respondent No.1 and 2

namely, the District Collector, Vadodara and Mamlatdar, Vadodara to recover amount of Rs.1,77,032/- plus due interest in terms of Recovery Certificate dated 25th October, 2000 issued by Labour Court, Vadodara.

3. Both the petitioners are employees of Shri Jaykant A. Patel and Shri Rameshbhai Marwadi. As the employers failed to perform the duty imposed under the law, the petitioners have constrained to file Workmen's Compensation Application No.5 of 1995 and W.C. Application No.33(Misc.) of 1999 before the Labour Court. The Labour Court, Vadodara passed two judgements dated 14th May, 1999 and 17th October, 1000 in favour of the petitioners-employees. In stead of the aforesaid judgements both employers-Shri Jaykant A. Patel and Shri Rameshbhai Marwadi did not pay the said amount and, therefore, the Labour Court, Vadodara issued a Recovery Certificate dated 25th October, 2000 to the District Collector, Vadodara and directed to recover Rs.1,77,032/- by way of errors of land revenue. The petitioners have also thereafter addressed a notice dated 4th May, 2001 to the Collector to recover the said amount by virtue of the Labour Court's order dated 17th October, 200. As the Collector failed and neglected to make available payment from employers to the petitioners, they have filed present petition on 29th July, 2001.

4. The learned Counsel for the petitioner has relied upon the judgement of this Court in Spl.C.A. No.4505 of 1999 decided by this Court (Coram : K.M.Mehta, J) on 14th March, 2001. He has relied on paras 13,14 and 15 which read as under :

> "13. In my view, Section 33-C provides recovery of money due from the employer. It provides that where any money is due to a workman from the employer under a settlement or an award (in this case) under the provisions of [Chapter V-A or Chapter V-B], the workman himself can apply in writing and file an application to the appropriate Government for the recovery of the money due to him and if the appropriate Government is satisfied that any money is so due it (namely as per the award amount from the employer) it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrears of land revenue. The

provisions of land revenue will be applicable as per Sections 150 to 154 of the Bombay land Revenue Code.

14. In the present facts, the necessary certificate has been issued as per Section 33-C of the Industrial Disputes Act, 1947 on 26th December, 1996. The petitioner addressed a notice dated 18th November, 1998 and, thereafter, ultimately, in January, 2001, the Taluka Mamlatdar Officer, Vadodara deposited an amount of Rs.60,773/- before the Labour Court. From the facts of the case, it can be seen that the appropriate Government has already issued certificate in 1996 and the Collector is under statutory obligation to recover the same as arrears of land revenue. In fact, the petitioner addressed notice to the Collector, Vadodara in November, 1998. However, the petitioner could able to recover the said amount only now i.e. in March, 2001. In my view, therefore, the Collector must understand the statutory obligation which has cast upon him under the Industrial Disputes act. He must not forget that the amount is due to an employee from the employer is by an amount of award which otherwise the employee is not able to recover from the employer and he has been applying to the appropriate Government for recovery of the money due to him and the appropriate Government has satisfied that amount is so due to the employee. In view of the same, I hope and trust that in future, the statutory authorities namely, the Collector or given case Mamlatdar or Taluka Development Officer will try to act quickly after obtaining certificate from the appropriate Government. A copy of my order may also be given to the learned Government Pleader with a request to inform the concerned Government Office, it may in terms inform the Collector in this behalf.

15. In view of the same, the

petitioner is entitled to recover the back wages in the Labour Court. The petitioner can withdraw the said amount out of Rs.60,773/- which has been deposited by the Taluka Development Officer. The office is directed to send a copy of this Order to the Labour Court as well as Collector, Vadodara. In view of the same, this petition stands disposed of. Notice is discharged."

5. I have been also informed by learned Counsel for the petitioner that on the identical issue Public Interest Litigation has also been filed before this Court and the matter is pending before the Division Bench consisting of Hon'ble the Chief Justice and other judge of this Court. The learned AGP has also pointed out that the Government has also issued necessary circulars in this behalf. I direct the the Secretary Revenue to issue necessary instructions to all Collectors and Mamlatdars in light of the aforesaid observations made by this Court in Spl. C.A. Application No.4505 of 1999 decided on 14th March, 2001 so that the workers may not have to wait for long time after obtaining certificate from the authority.

6. In view of the aforesaid circumstances, I direct the respondent No.1 and 2 to recover the said amount in question from Shri Jaykant A. Patel and Shri Rameshbhai Marwadi and after recovering the said amount the same may be deposited before the authority constituted under the Workmen's Compensation Act. After the said amount deposited before the Labour Court, Vadodara, the Registry of the Labour Court is requested to issue necessary crossed cheque to the petitioners.

In view of the aforesaid position, the petition is disposed of. I hope and trust that the authority will try to expedite the matter as early as possible. Rule is made absolute.

(K.M.Mehta, J)

'Bhavesh'